



**City Council  
Regular Meeting  
Tuesday, September 20, 2005  
7:00 P.M.**

**The regularly scheduled meeting of the Trinity City Council was held on Tuesday, September 20, 2005 at the Trinity Memorial United Methodist Church.**

**MEMBERS PRESENT:** Mayor, Jimmy Shore; Council members Karen Bridges, Phil Brown, Bob Labonte, Barry Lambeth, Dwight Meredith, and Miles Talbert.

**MEMBERS ABSENT:** Council members Ewings and Reddick.

**OTHERS PRESENT:** City Manager Ann Bailie; City Attorney, Bob Wilhoit; City Planning/Zoning Code Enforcement Administrator, Adam Stumb; City Clerk/FO, Debbie Hinson; City Engineer Randy McNeill; Members of the Press; and other interested parties.

**Call to Order**

Mayor Shore called the September 20, 2005 Regular Meeting of the Trinity City Council to order at 7:00 pm.

**Pledge of Allegiance**

Council member Lambeth led the Pledge of Allegiance.

**Invocation**

The invocation was given by Council member Lambeth.

After the invocation, Mayor Shore advised members and audience that former Council member Jerry Royal's son had been diagnosed with Leukemia and also that Earl Fields' wife had been diagnosed with cancer as well. He asked that these persons be remembered in prayer.

**Welcome Guest and Visitors**

Mayor Shore welcomed and thanked all persons in attendance and for their interest in the City.

**Review and Approval of Minutes**

**1. August 09, 2005 Pre-Agenda Meeting**

Mayor Shore called for corrections, additions, or deletions to the August 09, 2005 Pre-Agenda Minutes.

***Council member Talbert made a motion to approve the minutes as written. The motion was seconded by Council member Brown and approved unanimously by all Council members present.***

**2. August 16, 2005 Regular City Council Meeting**

Mayor Shore called for corrections, additions, or deletions to the August 16, 2005 Regular Minutes.

***Council member Bridges made a motion to approve the minutes as written. The motion was seconded by Council member Lambeth and approved unanimously by all Council members present.***

**Public Concerns and Commendations**

Mayor Shore opened this item and called on Beverly Nelson to address Council as per her request.

Ms. Beverly Nelson, President of the Archdale-Trinity Chamber of Commerce; Ms. Nelson extended the invitation to Mayor, Council members, and members of the Audience to attend the Public Candidates' Forums. This event is scheduled to be held here at the Trinity United Methodist Church, Tuesday, October 10, 2005 beginning at 7:00 p.m. She encouraged everyone to attend and advised those present that all candidates had already been invited. This will give the citizens an opportunity to come and meet the candidates. There will be opportunities given to submit questions for the candidates prior to the meeting. We look forward to seeing you there.

Mayor Shore gave an update on Council member Ewings who had been in Mississippi working with Red Cross disaster relief of the hurricane victims. She is scheduled to return home on September 23, 2005. We talked with her last Tuesday at our Pre-Agenda Meeting and they were having some rough times. Mayor Shore asked that everyone keep Council member Ewings in their prayers for a safe return home.

### **Public Hearings**

Prior to opening the Public Hearing Section, Mayor Shore reviewed the process for Public Hearings as indicated on the Agenda.

- 3. Rezoning Request #Z05-05, To Rezone Properties Located Within The City Of Trinity At 4154 And 4130 NC Hwy 62, Further Identified As Randolph County Tax Parcel Number 6786912829. Request Is To Rezone The Property From R-40 (Residential) And RA (Residential Agriculture) To OI (Office Institutional). Property Is Owned By Carol T. Hurley.**

Mayor Shore opened the Public Hearing and asked Mr. Stumb to brief Council.

Mr. Stumb advised Mayor Shore and Council the current zoning on this property was RA (residential agriculture) and R40 (residential 40). The request is to rezone the proposed property to O/I (office/institutional). Most of this area located in Randolph County is currently zoned residential. In Davidson County it is zoned industrial due to the Unilin Plant. The Current Land Use Plan calls for low to medium Commercial development. We are in the process of updating our Land Use Plan and I believe this area will remain either Commercial or Office/Institutional. The property has the principal residence located on the front section. There is also a barn and another house located on this property. The intended use for the property is for health care of an office nature. Ms. Hurley will explain in detail her plans for this property. In this type of General Rezoning, Council needs to consider all uses allowed in this zoning district when considering this rezoning request.

There was not a lot of contention against the project at the Planning/Zoning Meeting. The Planning/Zoning Board voted 7 to 1 to approve this request as presented to Office/Institutional. The Board did discuss Conditional Zoning that is not currently applicable in our Ordinance. The Board will be looking at the possibility of inserting this use into the City Ordinance over the next couple of months. This would allow Conditional Uses to be applied to some of the allowed uses in this zoning. This is a good tool to have but not to use at every rezoning.

Council member Talbert asked for staff recommendation. Mr. Stumb advised Council that staff recommended approval of this rezoning request. I do see this area as Office/Institutional in the future and not changing very much.

Mayor Shore opened the floor to those who wished to speak in favor of the request.

### **Speaking for the Request:**

**Carol Hurley, owner of property;** Ms. Hurley advised Council she had been a Registered Nurse since 1979, and had been in the home health business since 1986. Ms. Hurley advised Council that she currently owned four (4) home health agencies with one (1) location in High Point, Thomasville, Asheboro, and Winston Salem. She advised members that persons did not provide health care services to individuals on location at her business but rather that persons seeking employment in the home health care business come to her locations to fill out applications to be screened for employment. We provide in home health care services for people with different needs. We employ over 100 people in Davidson, Guilford and Randolph Counties combined. I am affiliated with Arcadia Health Care. It is my intent to make the house located at the back of the property closest to the Unilin Plant the health care office.

It is my intent to make the main house where I reside and located at the front of the property a Bed and Breakfast. The house has over 3,500 square feet and I have spent a lot of time and money in renovations on this house.

With no one else speaking for this request, Mayor Shore opened the item to anyone who wished to speak against the request.

### **Speaking Against the Request:**

**Dwight McDowell 4322, NC Highway 62;** I am very much in favor of the concept of what Ms. Hurley wants to do with this property. What Ms. Hurley is doing is fine and will not hurt our neighborhood at all and could be an enhancement in the future; however, as I stated at the Planning/Zoning Board I believe there needs to be more Special Use Permits issued for cases like this. I do not want some of the other businesses that are allowed in this zoning to be developed on this property. I would rather see a Special Use Permit issued to Ms. Hurley that would allow her to do the things she wants to do. Without the Special Use Permit anything allowed in this zoning could be developed on this property if Ms. Hurley decides to sell her business.

As I discussed at the Planning Meeting, we currently have issues with flooding in this area and further development would only make things worse. I would like to ask this body to encourage the Planning/Zoning Committee to use this type of permit for cases like this. Trinity is a small community and seems to be dedicated to the people of the community. I believe to institute Special or Conditional Use as a tool is one way to keep our community what it is today.

With no others speaking on the request, Mayor Shore closed the Public Hearing and called for staff recommendation.

### **Staff Recommendation**

This request was approved by the Planning/Zoning Board by a 7 to 1 vote. Staff recommends approval of the request as well.

Mayor Shore opened the floor to Council for discussion.

Council member Labonte asked for Mr. Stumb to place on power point the list of uses allowed in this zoning if this request was approved. Council member Labonte discussed with Ms. Hurley her desire for a Hiring Service and a Bed and Breakfast. These do not seem to go hand in hand with each other. Council member Labonte asked if the Bed and Breakfast would be open to any tourists that came through town.

Ms. Hurley advised Council that the Bed and Breakfast was by reservation only.

Ms. Hurley discussed her original contact concerning the Bed and Breakfast. She explained that to request the rezoning in this fashion would allow her to have the Bed and Breakfast and to have her office on the property. By moving the office to this property she would be saving approximately \$2,000.00 in rent. That was the purpose for requesting this rezoning in this manner.

There was a brief discussion between Council members and Mr. Stumb concerning the meaning of manufactured structures temporary as shown in this zoning. Mr. Stumb advised members this was to allow something such as a temporary construction office, but did not allow the permanent placement of mobile or modular homes.

With no further discussion, *Council member Talbert moved to make a motion to approve the request, seconded by Council member Bridges and approved unanimously by all Council members present.*

### **Unfinished Business**

None

### **New Business**

#### **4. Resolution Accepting Conditions Of Phase 3 Funding (Alan Hart, USDA-Rural Development)**

Mayor Shore opened this item and turned the discussion and review over to Mr. Hart from the USDA Rural Development.

Mr. Hart advised Council that he was here to review the conditions upon which USDA Rural Development can fund the Phase III proposed sewer project for the City of Trinity. This is the last step for approval before the project can be funded.

Mr. Hart reviewed the items that established the conditions that must be agreed upon and understood before continuing the process of the City's loan request as stated in the September 20, 2005 letter.

- **The cost estimated for this project is \$7,200,000.00. The proposed RUS Loan is \$5,000,000.00 with the balance of \$2,200,000.00 being paid from the City of Trinity Fund Balance.**

- The interest rate for the City if the loan is approved prior to the October 01, 2005 will be 4.125% and will be a 40 year note.
- Conditions that are set today must be met within 12 months from today's date of September 20, 2005.
- The repayment for this loan is set for a 40 year period, with the first two (2) installments being interest only. Each installment will be due on June 01 with the first installment due the first June 01 following the date of loan closing or delivery of the bond proceeds.
- Payments will be made by Pre-Authorized Debit. We will be drafting our payment from the city's checking account.
- Security for the proposed loan will consist of a General Obligation Bond. The City has previously conducted a bond referendum that has been approved by the voters of the City and will be sufficient to secure the note that we will propose for this project.
- Prior to construction, the city will deposit 2,200,000.00 into a Construction Account. These funds will be the first to be expended and are to be used with other funds to complete the funding of the proposed project. We require that the city obtain interim financing for this project through Bond Anticipation Notes that will be sold by the City. These interim financing funds in the form of Bond Anticipation Notes will be deposited in a construction account and will not be disbursed for any purpose until written approval is obtained from Rural Development.
- Loan Funds will be delivered to the city at the time of Loan Closing and will be used to pay off interim financing acquired by the city.
- The City must provide a certification concerning its legal authority to issue bonds and compliance with special laws and regulations.
- We require an annual audit of the city books prepared in accordance with OMB Circular A-133, a practice that the city currently does. We also require a copy of the annual audit, a copy of your current Contract to Audit, and evidence from the Local Government Commission that auditing and accounting procedures are in compliance with North Carolina General Statutes.
- The City must continue to carry proper liability and workman compensation insurance. In addition, the city must have Fidelity Bond coverage for the positions of officials entrusted with the receipt and disbursement of its funds and the custody of valuable property. The amount of the bond must be at least equal to the total annual debt service on all loans owed to Rural Development.
- The City will formally adopt the following Resolutions tonight:
- Loan Resolution: the city's official authorization to assume the \$5,000,000.00 debt.
- Equal Opportunity Agreement and Assurance Agreement: the city's agreement to provide equal employment and equal employment laws that affect our country.
- Prior to the beginning of construction, the city must adopt a Sewer Rate Schedule for the sewer system. The Sewer Rate Schedule must provide sufficient revenue to fund Operations and Maintenance Expenses, current and proposed debt service, and accumulation of reserves for replacement of short lived assets. Mr. Hart stated that he would need a certified copy of the city's Sewer Rate Schedule by closing. It is intended for this project when fully constructed to be fully self supportive, therefore there needs to be a rate set that will reflect this when the system is fully operational.
- The City already has an Operations and Maintenance Agreement with the City of Thomasville for your facilities, as well as an agreement with Davidson Water for

billing and collections. We would like to look at these agreements again and approve them.

- We also want the City to adopt Rules and Regulations for the City's Sewer System. We will need a certified copy of this prior to closing.
- We require a Debarment Certification- this certifies that the city is not debarred or suspended from participating in Federal Contracts.
- The City must complete a Vulnerability Assessment and Emergency Response Plan for the sewer system. The Vulnerability Assessment and Emergency Response Plan must be completed within six (6) months from the date of this letter. I will need a letter from the City stating this has been completed.
- Prior to loan closing, the City will acknowledge debt collection policies.
- Final Plans and Specifications will be approved by Rural Development prior to any bid. We will be intimately involved with the entire process as it relates to bidding, construction, inspections and so forth.
- The project shall be formally advertised for public bids. Typically the low bidder is awarded the contract.
- Professional Services and Contracts such as contracts with the city attorney and city engineer are required and subject to review and approval of the Rural Development. We will need these as soon as possible.
- Prior to the start of construction, the City must provide evidence that a Mandatory Connection Ordinance is in place for its sewer system.
- The term "Graduation" is included in all of our loan documents. This means that when the city is financially able to do so they will pay us in full. Our purpose is to assist the City of Trinity in the beginning with these projects. We do not compete with banks or savings and loans as lenders. We are here to help out Trinity in the beginning. Once the city progresses to the point where they can afford commercial rate financing, we will ask the city to seek those loans and pay the Rural Development in full.
- If there is a significant reduction in project costs as a result of redesign or bids received, funding needs for the project will be reassessed prior to loan closing.
- The City will implement the environmental mitigation measures as stated in the City of Trinity Phases 3, 4, and 5 Sewer Improvements NEPA Environmental Report. This document has been adopted by Rural Development as its Environmental Assessment and its associated mitigation measures are incorporated herein by reference.

Mr. Hart advised Mayor Shore and Council this concluded his discussion today in regards to Rural Development conditions as set forth in making this loan and called for questions from Council. With no questions, Mr. Hart reviewed the remaining documents with Council as follows:

- **Letter of Intent to Meet Conditions:** The city's letter to Rural Development signed by the Mayor advising Rural Development that the City of Trinity intends to meet the conditions as described above.
- **Request for Obligations of Funds:** This is the City's official request for Rural Development to approve their loan request for \$5,000,000.00. The loan will be secured at an interest rate of 4.125%. This is a fixed rate and will not change unless our rate goes lower between now and the closing date of the loan. If the rate goes down then we would give the city the benefit of the lower rate.

Once this document is returned to the City from Rural Development in approximately 7 to 10 days, it will indicate approval of this request. It is my recommendation that Mayor Shore and Manager Bailie get together with the City Attorney and City Engineer and proceed with the Phase III project.

- **Loan Resolution:** This is a Resolution of the City Council of the City of Trinity authorizing and providing for the incurrence of indebtedness for the purpose of the Phase III sewer improvements in the amount of \$5,000,000.00. We have reviewed the conditions that the city will need to meet and this will be official authorization for the city to incur debt in the amount of \$5, 000,000.00 for these improvements.
- **Applicant Certification Regarding Federal Collection Policies:** This document specifies in detail what happens when and if payments are not made.
- **Assurance Agreement:** As long as monies are owed to Rural Development, the city is required to make the facility available to all users on the system, and to be in accordance with all of the equal opportunity laws in our country. The city currently engages in this practice and will need to continue to do so.
- **Equal Opportunity Agreement:** This contract states that all contractors that work for the city in the process of constructing this facility and your employment practices of the city will be in accordance of all the equal opportunity laws of our country.
- **Certification Documentation:** To certify that the City of Trinity is in compliance with all Federal, State and Local Laws.
- **Debarment Certification:** The government keeps a list of those organizations that are barred from doing business with the Federal Government. Trinity is not on that list and will need to certify that they are not on this list.
- **Certification for Contracts, Grants, and Loans:** We require that the city certify to Rural Development that no federal appropriated funds have been used to lobby funds from Congress for this project. I am not aware of this but will need the city certification regarding this item.

Mr. Hart advised members this concluded his review and advised Mayor Shore that he needed the City to pass the following effective tonight, September 20, 2005; Resolution Accepting the Terms of Letter of Conditions, Letter of Intent to Meet Conditions, Equal Opportunity Agreement, the Assurance Agreement, and the Loan Resolution.

Mayor Shore called for a motion to accept the items as reviewed by Mr. Hart.

*Council member Lambeth moved to make a motion to accept the approval of documents as stated by Mr. Hart*

*( Resolution Accepting the Terms of Letter of Conditions, Letter of Intent to Meet Conditions, Equal Opportunity Agreement, the Assurance Agreement, and the Loan Resolution),*

*Move to motion was seconded by Council member Talbert and approved unanimously by all Council members present.*

## 5. Contract for Codification Services.

Mayor Shore opened this item and called on Manager Bailie to brief Council.

Manager Bailie advised members that state laws requires that cities properly organize, index and file their Ordinances. Manager Bailie advised Council that staff over the past 2 years had gone through all of the minutes and pulled all of the Ordinances, policies, and guidelines that deal with the operations of the city. We now have a Book of Ordinances that we have arranged and that need to be codified.

Two companies have submitted proposals to perform this service. One is American Legal which works in conjunction with the League of Municipalities, the other is Municipal Code. American Legal is the least expensive and has proposed to perform this service at a cost of \$6,450.00. They will take all of our Ordinances, edit for grammar, spelling and usage, and consistency with each other and the North Carolina State Statutes. It will include all Charter revisions and things of this nature. Each year we will submit to them any new Ordinances and they will incorporate those into our existing Code of Ordinances. This gives us a Code that is structurally organized that is consistent with each other and State Statutes.

There was conversation between Manager Bailie, Council members and Attorney Wilhoit concerning the requirement of this procedure. Attorney Wilhoit advised members that the Statute used the word "shall". It does not say we would like for cities to do this but uses the word "shall".

*Council member Talbert moved to authorize payment for codification, seconded by Council member Brown and approved unanimously by all Council members present.*

## **6. Ratify Randolph County National Incident Management System Ordinance.**

Mayor Shore opened this item and turned discussion over to Manager Bailie.

Manager Bailie advised Mayor Shore and Council members that the Federal Homeland Department of Security was requiring all governments, local, state, and federal, to adopt the National Incident Management System. This system is designed to assure all level of governments across the nation have the capability to work efficiently and effectively together. It is designed to assure all responders at all levels of government use the same organizational structure, terminology, procedures and systems all the time.

Randolph County has adopted the Ordinance and they are asking all the municipalities located in the county to ratify their Ordinance.

After a brief discussion, *Council member Bridges made a motion to adopt (ratify) the Ordinance, seconded by Council member Labonte, and approved unanimously by all Council members present.*

## **7. Appointments to Land Development Plan Committee**

Mayor Shore opened this item and turned discussion over to Manager Bailie.

Manager Bailie discussed the process approved at the August meeting by Council to make appointments to the Land Development Committee. The Council of Governments has been working on base maps that will provide the base for the development of a Land Use Plan. The process approved last month for appointment was that the city would advertise for volunteers to serve on the committee, which we did. I also sent out in your agenda packets, applications for you to pass out to persons that you felt would be good applicants for this committee. We received 12 applications by the deadline. Adam and I are recommending that all 12 applicants be appointed. We also would like 4 Council members to serve on the committee and have 4 Council members who have stated that they would like to serve on this committee. Those Council members are Karen Bridges, Phil Brown, Dwight Meredith, and Miles Talbert.

The meetings will begin October 13, 2005 and are to be held once per month on the second Thursday at 7:00 at this location (Trinity Memorial United Methodist Church). There will be 2 city wide meetings where all the residents of the city will be invited to provide input on how they would like to see their city look and how they would like to see it developed.

Our request tonight is that Council appoints the Committee so that letters can be mailed to the applicants advising them of their appointment to the Committee and also of the first scheduled meeting date of Thursday, October 13, 2005.

Council member Meredith discussed whether Council members knew the proposed applicants as well as what wards each applicant might live in. Manager Bailie advised Council member Meredith and other members that Council members received copies of all applicants that applied and that ward representation was not a criterion for applicants; however all of the wards are represented.

After a brief discussion between Mayor Shore and Council members, Mayor Shore called for a motion.

*Council member Talbert moved to make a motion to appoint committee members as recommended, seconded by Council member Bridges, and approved 4 to 2 with Council members Meredith and Labonte voting Nay.*

After the vote, Mayor Shore read the following names of applicants that would be appointed to the committee. Fran Andrews, Melinda "Mel" Brooks, Lloyd Brown, Jane Domer, Linda Gantt, Paul Guthrie, Gary Loflin, Jane Maddocks, John Maddocks, Lori Moore, Kenneth Orr, and Jeff Taylor.

Council members Karen Bridges, Phil Brown, Dwight Meredith, and Miles Talbert will also serve on the committee.

## **Business and Closing Comments from Mayor and Council**

### **MAYOR**

None

### **COUNCIL MEMBERS**

None

## **Business from City Manager**

None

### **Adjournment**

Prior to adjournment, Mayor Shore read the Upcoming Meetings and Community Events. With no further business to discuss, Mayor Shore called for a motion to adjourn the September 20, 2005 Regular Meeting of the Trinity City Council.

*Council member Talbert made a motion to adjourn the September 20, 2005 meeting. The motion was seconded by Council member Brown, and approved unanimously by all Council members present.*